

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 1:06-CR-181

v.

HON. ROBERT HOLMES BELL

NICKOLAS MAURICE FRY,

Defendant.

/

**MEMORANDUM OPINION AND ORDER**

This matter is before the Court on defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (docket #65). Based on a review of defendant's motion, the Sentence Modification Report, submissions by counsel on behalf of the defendant and the government, and the original criminal file, the Court has determined that the motion should be denied for the following reason(s):

Defendant was sentenced on April 6, 2007 to 120 months custody following his conviction for Conspiracy to Possess with Intent to Distribute 50 Grams or More of Cocaine Base contrary to 21 U.S.C. §§ 846, 841(a)(1) and (b)(1)(A)(iii). The Court's sentence varied considerably from the advisory guideline range of 168 - 210 months. On June 21, 2007, the Court amended defendant's term of custody to 108 months following the filing of the government's Rule 35(b) motion. On May 16, 2008, following the filing

of a second Rule 35(b) motion, the Court amended defendant's term of custody to 100 months.

In order to have a sentence that adequately reflects the facts of the conviction and the defendant's criminal record, and in light of the adjustments already made to defendant's term of custody, the Court hereby **DENIES** defendant's Motion for Modification or Reduction of Sentence

DATED: October 27, 2009

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE